

MILMAN LABUDA LAW GROUP PLLC

3000 MARCUS AVENUE
SUITE 3W8
LAKE SUCCESS, NY 11042

TELEPHONE (516) 328-8899
FACSIMILE (516) 328-0082

April 17, 2022

VIA ECF

United States District Court
Eastern District of New York
Attn: Hon. Pamela K. Chen, U.S.D.J.
225 Cadman Plaza East
Courtroom 4F North
Brooklyn, NY 11201-1804

Re: IME WatchDog, Inc. v. Gelardi, et al.
Case No.: 1:22-cv-1032 (PKC) (JRC)
MLLG File No.: 25-2022

Dear Judge Chen:

This office represents the Plaintiff IME WatchDog, Inc. (“Plaintiff”) and Third-Party Defendant Daniella Levi (“Mrs. Levi”) in the above-referenced case. Plaintiff writes to respectfully request leave to file reply papers in further support of their motion for a preliminary injunction and to address the matter of attorneys’ fees that Defendants are required to pay for violating Rules 45 and 26 of the Federal Rules of Civil Procedure (hereinafter “Rules” or “Rule”) in issuing subpoenas that they have withdrawn after Plaintiff, Mrs. Levi, and Third-Party Defendant Carlos Roa (“Roa”) moved to quash said subpoenas.

With respect to Plaintiff’s request for leave to file reply papers in further support, at the April 4, 2022 hearing, this Court stated that it would not enter a deadline for the submission of same, but that Plaintiff would be permitted to if it wished to submit additional papers. See Docket Entry 46-1 at 172:8-25. Plaintiff thus requests until Thursday, April 21, 2022 to submit reply.

With respect to attorneys’ fees, Plaintiff intends to move as it relates to the motion for a preliminary injunction following the Court’s decision after supplemental briefing. However, yesterday, Plaintiff and Roa each filed letter motions to quash subpoenas Defendants improperly served without prior notice and before a Rule 26(f) conference was held, and Defendants – in response – conceded that the subpoenas were improperly served, withdrew them, and put the onus on Plaintiff and Roa to inform the subpoenaed parties that the subpoenas had been quashed. Plaintiff submits that Defendants must be required to pay attorneys’ fees for this most recent violation of the Rules, as well. See Fed. R. Civ. P. 37(a)(5)(A) (“If the motion is granted—or if the disclosure or requested discovery is provided after the motion was filed—the court must, after giving an opportunity to be heard, require the party ... whose conduct necessitated the motion ... to pay the movant’s reasonable expenses incurred in making the motion”). As such, rather than burdening the Court with two separate motions for attorneys’ fees, Plaintiff is prepared to request attorneys’ fees arising out of Defendants’ conceded misconduct with respect to the subpoenas in their anticipated motion for attorneys’ fees concerning the injunction, if the Court permits same.

Plaintiff and Mrs. Levi thank this honorable Court for its time and attention to this case.

Dated: Lake Success, New York
April 17, 2022

Respectfully submitted,
MILMAN LABUDA LAW GROUP PLLC
/s/ Emanuel Kataev, Esq.

Emanuel Kataev, Esq.
3000 Marcus Avenue, Suite 3W8
Lake Success, NY 11042-1073
(516) 328-8899 (office)
(516) 303-1395 (direct dial)
(516) 328-0082 (facsimile)
emanuel@mllaborlaw.com

*Attorneys for Plaintiff
Counterclaim-Defendant
IME WatchDog, Inc.
and Third-Party Defendant
Daniella Levi*

VIA ECF

Katsoudakis & Iakovou Law Group, PLLC
Attn: Steven Siegler, Esq.
40 Wall Street, 49th Floor
New York, NY 10005-1300
(212) 404-8644 (telephone)
(212) 404-8609 (direct dial)
(332) 777-1884 (facsimile)
steven@kilegal.com

*Attorneys for Defendants
Counter-Claim Plaintiffs
Third-Party Plaintiffs
Safa Abdulrahim Gelardi
Vito Gelardi, and
IME Companions LLC*

VIA ECF

Leo Shalit, P.C.
Attn: Leo Shalit, Esq.
45 Glen Cove Road
Greenvale, NY 11548
(833) SHALIT-1 (office)
(646) 957-0009 (direct)
(833) 742-5481 (facsimile)
leo@shalit-law.com

*Attorneys for
Third-Party Defendant
Carlos Roa*